

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN**

CITIZENS INSURANCE COMPANY
OF THE MIDWEST,

Plaintiff,

v.

Case No. 2:22-cv-10930-DPH-DRG

Hon. Denise Page Hood

Magistrate Judge David R. Grand

EXCELLERATED TOWING &
RECOVERY, L.L.C.,

Defendant.

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Mark J. Makoski (P81243)
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**REQUEST FOR CLERK'S ENTRY OF DEFAULT JUDGMENT AGAINST
DEFENDANT EXCELLERATED TOWING & RECOVERY, L.L.C.**

To: Clerk of the Court

Pursuant to Rule 55(b) of the Federal Rules of Civil Procedure and E.D.
Mich. LR 55.2, it is requested that the Clerk enter a judgment by default against:

- Excellerated Towing & Recovery, L.L.C.

Please review the Affidavit of Sum Certain.

AFFIDAVIT OF SUM CERTAIN

In support of its Request for Clerk's Entry of Default Judgment, Plaintiff Citizens Insurance Company of the Midwest ("Citizens"), through counsel, hereby declares under penalty of perjury that the following statements are true and correct:

1. Defendant Excellerated Towing & Recovery, L.L.C ("Excellerated") is subject to default judgment.

2. A default has been entered on November 14, 2022 because the defendant has failed to plead or otherwise defend in accordance with Fed. R. Civ. P. 55(a). (*See* Dkt. 9.)

3. The defendant is not an infant, incompetent person, or a member of the military service.

4. Plaintiff is entitled to judgment in the amount of \$91,185.00 (*see* Plaintiff's Complaint, Dkt. 1) as follows:

- On June 26, 2021, Excellerated towed a 2021 Cadillac XT6. Excellerated converted the vehicle and refused to release it unless Citizens paid **\$8,789.00**. (Ex A, Declaration of Mark Wharton).
- On June 30, 2021, Excellerated towed a 2021 Chevrolet Equinox. Excellerated converted the vehicle and refused to release it unless Citizens paid **\$6,590.00**. (*Id.*)

- On July 26, 2021, Excellerated towed a 2010 Ford Fusion. Excellerated converted the vehicle and refused to release it unless Citizens paid **\$6,390.00**. (*Id.*)
- On January 9, 2022, Excellerated towed a 2015 Ford Fusion. Excellerated converted the vehicle and refused to release it unless Citizens paid **\$8,626.00**. (*Id.*)

5. Excellerated's above actions have caused Citizens to pay a total of **\$30,396.00**. (*Id.*)

6. Pursuant to MCL 600.2919a, Citizens is entitled to treble damages in the amount of **\$91,185.00**.

7. Accordingly, Plaintiff's claim is for a sum certain or a sum that can be made certain by computation in the amount of **\$91,185.00**.

8. I declare under penalty of perjury that the foregoing is true and correct.

DYKEMA GOSSETT PLLC

Dated: February 23, 2023

By: /s/Robert H. Ellis

Robert Hugh Ellis (P72320)

Mark J. Makoski (P81243)

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